



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Vern Brockway, President
Regal Recycling
645 Lucy Road
Howell, Michigan 48843

Re. Administrative Consent Order
EPA-5-10-113(a) WI-02

Dear Mr. Brockway:

Enclosed is an Administrative Consent Order regarding Regal Recycling's facility in Howell, Michigan. The effective date of the Order is MAR 26 2010.

Please direct any legal questions regarding this Order to Andre Daugavietis, Associate Regional Counsel, at (312) 886-6663 and any technical questions to Jeffrey Gahrns, Environmental Engineer, at (312) 886-6794.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bonnie Bush", is written above the typed name.

Bonnie Bush, Chief
Air Enforcement and Compliance Assurance Section (Michigan/Wisconsin)

Enclosure

cc: Paul Bohn
Fausone Bohn, LLP (with enclosure)

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-10-113(a)-MI-02
)	
Regal Recycling)	Proceeding Under Sections
645 Lucy Road)	113(a)(3) and 114(a)(1)
Howell, Michigan)	of the Clean Air Act
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
)	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division (Director), U.S. Environmental Protection Agency, Region 5, is entering into this Administrative Consent Order (Order) with Regal Recycling (Regal), 645 Lucy Road, Howell, Michigan, under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act ("Act"), 42 U.S.C. §§ 7413(a)(3), 7414(a)(1).

I. Statutory and Regulatory Background

2. Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), authorizes the Administrator of EPA to issue an order requiring compliance with Title VI of the Act to any person who has violated or is violating any requirement of Title VI. The Administrator of EPA has delegated her order authority to the Regional Administrator of EPA, Region 5 pursuant to EPA Headquarters Delegation 7-6-A. The Regional Administrator of EPA, Region 5, has delegated his order authority to the Director pursuant to EPA Region 5 Delegation 7-6-A.

3. EPA may require any person who owns or operates an emission source to make reports and provide information required by the Administrator under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1).

4. Title VI of the Act, 42 U.S.C. § 7671, *et seq.*, provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b), provides EPA with the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). In the May 14, 1993, Federal Register, 58 Fed. Reg. 28660, EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners. These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

5. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioners (MVACs) must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the small appliance or MVAC of the need to properly recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

6. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully

manufactured, charged, and hermetically sealed in a factory with five pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. See 40 C.F.R. § 82.152.

7. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define motor vehicle air conditioners (MVACs) as mechanical vapor compression refrigeration equipment used to cool the driver's or passenger's compartment of any motor vehicle. See 40 C.F.R. §§ 82.32 and 82.152.

II. Findings

8. Regal owns and operates a scrap metal recycling facility at 645 Lucy Road, Howell, Michigan. Regal is a corporation organized and doing business in Michigan. Regal is a person as defined by 40 C.F.R. § 82.152.

9. Regal is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

10. On June 20, 2008, EPA conducted an inspection of Regal's facility in Howell, Michigan.

11. On August 27, 2007, and December 6, 2007, EPA sent Regal requests for information pursuant to Section 114(a) of the Act, 42 U.S.C. § 7414(a). EPA requested information related to Regal's compliance with the safe disposal requirements of 40 C.F.R. § 82.156.

12. On October 11, 2007, and January 29, 2008, Regal responded to EPA's requests for information.

13. At times prior to this Order, Regal accepted small appliances without recovering refrigerant. Regal relied instead on obtaining verification statements. The verification statements that Regal was using did not include information identifying what person recovered refrigerant, or the date upon which the refrigerant was removed. For these small appliances, Regal did not obtain verification statements that met the requirements of 40 C.F.R. 82.156(f).

14. On December 24, 2008, EPA sent Regal a Finding of Violation (FOV), informing Regal that it was in violation of the Section 114 CAA for failure to provide compliance-related records requested on December 6, 2007.

15. EPA offered Regal an opportunity to confer with EPA on the alleged violations, and on January 26, 2009, representatives of Regal and EPA discussed the FOV and alleged violations via teleconference.

16. Subsequently, representatives of Regal and EPA discussed the proposed Order and agreed to the compliance program identified in Section III of this Order.

III. Compliance Program and Agreement

17. Regal must comply with the requirements of 40 C.F.R. Part 82. Additionally, Regal shall take the following actions by the dates specified in paragraphs 18 through 27 of this Order, below, and maintain compliance with these requirements for two years after the effective date of this Order for any small appliance or MVAC that Regal receives at its facility during this time.

18. By February 15, 2010, Regal shall not accept small appliances or MVACs with cut or dismantled refrigerant lines unless its supplier can provide the certification identified in paragraph 19, below.

19. By February 15, 2010, Regal must notify its suppliers in writing that it will not accept small appliances or MVACs with cut or dismantled refrigerant lines unless the suppliers can certify that, to the best of his/her knowledge after reasonable inquiry, the refrigerant was properly evacuated prior to cutting or dismantling the refrigerant lines or that all of the refrigerant had previously leaked from the appliance or MVAC. Regal shall use the verification statement included as Attachment 1 to this Order. Beginning on February 15, 2010, Regal shall reject small appliances or MVACs with cut or dismantled refrigerant lines unless the suppliers can certify that the refrigerant was properly evacuated prior to cutting or dismantling the refrigerant lines or that all of the refrigerant had leaked from the appliance or MVAC previous to his/her possession.

20. By February 15, 2010, Regal agrees to notify its suppliers in writing that it will provide refrigerant recovery services incidental to acceptance of appliances and MVACs.

21. Regal may satisfy the notice requirements of paragraphs 19 and 20 with a sign that is prominently displayed at its facility's weigh station.

22. For small appliances or other items which Regal rejects, as set forth in paragraph 19, Regal agrees to document the number of items rejected, the date such item was rejected, and the reason for rejecting the item(s).

23. By February 15, 2010, Regal shall utilize appropriate equipment (the company already possesses such equipment) to recover refrigerant from small appliances and MVACs as necessary incidental to acceptance of appliances and MVACs.

24. Regal shall have such refrigerant recovered by a properly trained individual. If that individual is an employee of Regal, then Regal will ensure that the individual is properly trained to use appropriate equipment as identified in paragraph 21.

25. By February 15, 2010, when refrigerant recovery is necessary, Regal shall utilize the small appliance log included as Attachment 2. Regal shall retain copies of receipts for all refrigerants it collects, if any, and sends to another company for reclamation.

26. By February 15, 2010, Regal shall provide EPA with proof of its compliance with the notice requirements of paragraphs 19 and 20. By February 15, 2010, Regal shall provide EPA with proof that Regal has on staff, or has made appropriate arrangements with, a person, or persons, trained in recovering refrigerant, as required by paragraph 24.

27. By July 31, 2010, and January 31, 2011 Regal shall submit to EPA copies of: its small appliance log, the information required by paragraph 22, and any verification statements used pursuant to paragraph 19 above.

28. Regal must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
EPA, Region 5
77 West Jackson Blvd
Chicago, Illinois 60604

IV. General Provisions

29. Regal agrees to the terms of this Order.
30. Regal will not contest the authority of EPA and it to enter into this agreement. Regal waives any further opportunity to confer, or to request a hearing.
31. This Order does not affect Regal's responsibility to comply with other federal, state, and local laws.
32. This Order does not restrict EPA's authority to enforce any violations of the Act.
33. Failure to comply with this Order may subject Regal to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.
34. Regal may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any appropriate portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Regal fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.
35. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501, *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response(s) to this Order without

staples. Paper clips, binder clips, and 3-ring binders are acceptable.

36. The terms of this Order are binding on Regal, its assignees, and successors. Regal must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA that it has given the notice.

37. EPA may use any information submitted under this Order in an administrative, civil, judicial, or criminal action.

38. This Order is effective on the date of signature by the Director. This Order will terminate one year from the effective date, provided that Regal has complied with all terms of the Order throughout its duration.

39. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

40. Each party agrees to pay its own costs and attorneys' fees in this action.

41. This Order constitutes the entire agreement between the parties.

AGREED AS STATED ABOVE:

REGAL RECYCLING

By: VERN BROCKWAY

Date: 3/12/10

Name: V B

Title: Pres

AGREED AND SO ORDERED:

U.S. ENVIRONMENTAL PROTECTION AGENCY

Cheryl L. Newton

Date: 3/24/10

Cheryl L. Newton

Director

Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent the Administrative Consent Order,
EPA Order No. **EPA-5-10-113(a)-MI-02**, by Certified Mail, Return Receipt Requested,
to:

Vern Brockway, President
Regal Recycling, Inc.
645 Lucy Road
Howell, Michigan 48843

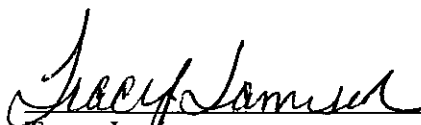
I also certify that I sent a copy of the Administrative Consent Order, EPA Order
No. **EPA-5-10-113(a)-MI-02**, by First Class Mail to:

Paul Bohn
Fausone Bohn, LLP
41700 West Six Mile Road, Suite 101
Northville, Michigan 48168

Thomas Hess, Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan

Michael McClellan, District Supervisor
Michigan Department of Environmental Quality
Lansing District Office
525 W. Allegan (Constitution Hall, 4th Floor, North)
P.O. Box 30242
Lansing, Michigan 48909-7742

on the 26 day of March 2010.


Tracy Jamison
Office Automation Assistant (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7667 3730